

REMARKS

Initially, Applicant would like to express appreciation to the Examiner, Ms. Christine Cajilig, and to the Primary Examiner, Mr. Robert Canfield, for the courtesy of the interview conducted with his attorney, Ms. Linda Hodge, on May 19, 2010. During the interview, the claims were discussed and compared to the prior art applied by the Examiner in the rejections, *i.e.*, U.S. Patent No. 5,192,624 to MORIMOTO; U.S. Patent No. 6,966,402 to MATIAS et al.; and U.S. Patent No. 6,585,793 to RICHESON et al. It was agreed that MORIMOTO fails to disclose projections having a pointed tip, and that both MATIAS et al. and RICHESON et al. fail to disclose projections of a cladding layer embedded into an intermediate layer. Accordingly, Applicant has presented claims 36, 46, and 67, amended to include projections having a pointed tip and which are embedded into the intermediate cladding layer, in a formal amendment as set forth above, in order to obtain an early allowance of the claims of record.

Applicant would also like to express appreciation to the Examiner for the detailed Official Action provided.

Applicant acknowledges with appreciation the Examiner's indication of allowable subject matter in claims 45 and 66.

Upon entry of the above amendment, claims 36, 40, 42-46, 52, 54, 60, 61, and 67 will have been amended; and claim 47 will have been canceled. Accordingly, claims 36-46 and 48-67 are currently pending. Applicant respectfully requests reconsideration of the outstanding rejection and allowance of claims 36-46 and 48-67 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has objected to claims 52 and 54 for minor informalities. In response, Applicant has amended claims 52 and 54, as suggested by the Examiner. Accordingly, in view of the above noted amendments and remarks, it is believed that the

objection to claims 52 and 54 has been overcome, and Applicant respectfully requests reconsideration and withdrawal of the outstanding objection.

The Examiner has rejected claims 42-45 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has rejected claims 42-45 under 35 U.S.C. § 112, second paragraph, as lacking antecedent basis for "said breathing wall panel". In response, Applicant has amended claims 42-45 to set forth "air permeable panel" and "air permeable panels". Accordingly, in view of the above noted amendments and remarks, it is believed that the rejections of claims 42-45 under 35 U.S.C. § 112, second paragraph have been overcome and that all of the claims fully comply with 35 U.S.C. § 112, second paragraph, and Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 42-45 under 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claims 36, 38-41, 46, 51, 53, 55, 62, 64, 65, and 67 under 35 U.S.C. § 102(b) as being anticipated by MORIMOTO (U.S. Patent No. 5,192,624).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claims 36, 46, and 67 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that MORIMOTO fails to show each and every element recited in the amended claims. In particular, claim 36, as amended, sets forth an air permeable panel engaging and supporting an intermediate cladding layer including, inter alia, a plurality of projections interconnected in a lattice configuration, "said projections each having a pointed tip portion and being embedded into the intermediate cladding layer, the respective pointed tip portions being arranged to face in a common direction". Claim 46, as amended, sets forth an air

permeable panel engaging with an intermediate cladding layer having filtering characteristics, including, inter alia, a plurality of hollowed elements interconnected in a planar lattice arrangement, the hollowed elements facing in a common direction and being interspersed with apertures, "wherein the hollowed elements have a pointed outer surface forming pointed tip and are embedded into the intermediate cladding layer for supporting the intermediate cladding layer". Claim 67, as amended, sets forth a breathing wall panel including, inter alia, an intermediate cladding layer, and "an air permeable panel for supporting said intermediate cladding layer, said air permeable panel comprising a plurality of projections interconnected in a lattice configuration, said projections each having a pointed tip portion and being embedded into the intermediate cladding layer, the respective pointed tip portions being arranged to face in a common direction".

This amendment is fully supported by the specification, including the claims and drawings, and no prohibited new matter has been added. In particular, support for the above amendments may be found at least in the specification and in figure 1, cross section A-A.

As shown in figure 1, cross section A-A, Applicant's claimed invention includes an air permeable panel 1 engaged with an intermediate cladding layer. The air permeable panel 1 includes projections extending therefrom and which each have a tip portion arranged to face in a common direction. The tip portions are embedded into the intermediate cladding layer to support the intermediate cladding layer. Accordingly, with the claimed invention, an air permeable panel is provided which achieves optimum dynamic insulation properties while, at the same time, providing structural support to the intermediate cladding layer, via the pointed tip portions embedded into the intermediate cladding layer. See particularly figure 1, cross section A-A; and paragraph [0035]. Thus,

Applicant's claimed invention provides improvements and advantages over the prior art devices.

The MORIMOTO patent discloses a sound absorbing material including a panel 16, an intermediate layer 14, and cup-shaped hollow projections that engage the intermediate layer 14. See figures 1 and 5. However, Applicant notes that claims 36, 46, and 67 have been amended, as discussed at the interview, to include the *pointed tip that is embedded into the intermediate cladding layer*. As discussed at the interview, the MORIMOTO device does not include pointed tip portions that are embedded into the intermediate cladding layer. In particular, the cup-shaped hollow projections of MORIMOTO are shaped like a cup with the cup bottom engaging the intermediate layer, and thus cannot be fairly described as being a pointed tip that is embedded into the intermediate cladding layer.

Thus, the MORIMOTO patent does not show an air permeable panel including, inter alia, projections having pointed tip portions that are embedded into an intermediate cladding layer, as claimed in amended claims 36, 46, and 67.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 36, 46, and 67 under 35 U.S.C. § 102(b) over MORIMOTO is improper and withdrawal thereof is respectfully requested.

Applicant submits that dependent claims 38-41, 51, 53, 55, 62, 64, and 65, which are at least patentable due to their dependency from claims 36 and 46 for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features.

The Examiner has rejected claims 36-40, 42-44, 46-48, 51, 52, 55, 56, and 67 under 35 U.S.C. § 102(e) as being anticipated by MATIAS et al. (U.S. Patent No. 6,966,402).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claims 36, 46, and 67 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that MATIAS et al. fails to show each and every element recited in the amended claims. In particular, as described in detail above, claims 36, 46, and 67, as amended, set forth an air permeable panel including, inter alia, projections each having a pointed tip portion and being embedded into the intermediate cladding layer.

As described in detail above, Applicant's claimed invention includes an air permeable panel 1 including tip portions facing in a common direction and that are embedded into the intermediate cladding layer to support the intermediate cladding layer. See particularly figure 1, cross section A-A; and paragraph [0035]. Thus, Applicant's claimed invention provides improvements and advantages over the prior art devices.

The MATIAS et al. patent discloses an acoustical heat shield including a panel 20, and an intermediate layer 1. The panel 20 includes a plurality of dimples 22 extending from the panel. However, Applicant notes that claims 36, 46, and 67 have been amended, as discussed at the interview, to include the *pointed tip that is embedded into the intermediate cladding layer*. As discussed at the interview, the MATIAS et al. device does not have pointed portions that are embedded into the intermediate cladding layer. In particular, the dimples 22 of MATIAS et al. extend toward an intermediate layer, but are not embedded in any layer, and thus cannot be fairly described as being a pointed tip that is embedded into the intermediate cladding layer.

Thus, the MATIAS et al. patent does not show an air permeable panel including, inter alia, projections having pointed tip portions that are embedded into an intermediate cladding layer, as claimed in amended claims 36, 46, and 67.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 36-40, 42-44, 46-48, 51, 52, 55, 56, and 67 under 35 U.S.C. § 102(e) over MATIAS et al. is improper and withdrawal thereof is respectfully requested.

Applicant submits that dependent claims 37-40, 42-44, 48, 51, 52, 55, and 56, which are at least patentable due to their dependency from claims 36 and 46 for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features.

The Examiner has rejected claims 46 and 54 under 35 U.S.C. § 102(e) as being anticipated by RICHERSON et al. (U.S. Patent No. 6,585,793).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claim 46 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that RICHERSON et al. fails to show each and every element recited in the amended claims. In particular, as described in detail above, claim 46, as amended, sets forth an air permeable panel including, inter alia, projections each having a pointed tip portion and being embedded into the intermediate cladding layer.

As described in detail above, Applicant's claimed invention includes an air permeable panel 1 including tip portions facing in a common direction and that are embedded into the intermediate cladding layer to support the intermediate cladding layer. See particularly figure 1, cross section A-A; and paragraph [0035]. Thus, Applicant's claimed invention provides improvements and advantages over the prior art devices.

The RICHERSON et al. patent discloses a filter apparatus including a panel 66, and an intermediate layer 90. The panel 66 includes a plurality of elements 70 extending from the panel 66. However, Applicant notes that claim 46 has been amended, as discussed at the interview, to include the *pointed tip that is embedded into the*

intermediate cladding layer. As discussed at the interview, the RICHERSON et al. device does not include pointed portions that are embedded into the intermediate cladding layer. In particular, the elements 70 of RICHERSON et al. extend toward the intermediate layer, but are not embedded in the layer, and thus cannot be fairly described as being a pointed tip that is embedded into the intermediate cladding layer.

Thus, the RICHERSON et al. patent does not show an air permeable panel including, inter alia, projections having pointed tip portions that are embedded into an intermediate cladding layer, as claimed in amended claim 46.

Since the reference fails to show each and every element of the claimed device, the rejection of claims 46 and 54 under 35 U.S.C. § 102(c) over RICHERSON et al. is improper and withdrawal thereof is respectfully requested.

Applicant submits that dependent claim 54, which is at least patentable due to its dependency from claim 46 for the reasons noted above, recites additional features of the invention and is also separately patentable over the prior art of record based on the additionally recited features.

The Examiner has rejected claims 49, 50, and 57-61 under 35 U.S.C. § 103(a) as being unpatentable over RICHERSON et al. in view of RAMMIG et al. (U.S. Patent No. 6,966,939).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claim 46 to clearly obviate the above-noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that RICHERSON et al. fails to teach or suggest the subject matter claimed in amended claim 46, as described above. Further, RAMMIG et al. fails to cure these deficiencies. Thus, even if the teachings of RICHERSON et al. and RAMMIG et al. were combined, as suggested by the Examiner, the claimed combination would not result. Moreover, there is nothing in the cited prior

art that would lead one of ordinary skill in the art to make the modification suggested by the Examiner in the rejection of claims 49, 50, and 57-61 under 35 U.S.C. § 103(a) over RICHERSON et al. in view of RAMMIG et al. Thus, the only reason to combine the teachings of RICHERSON et al. and RAMMIG et al. results from a review of Applicant's disclosure and the application of impermissible hindsight. Accordingly, the rejection of claims 49, 50, and 57-61 under 35 U.S.C. § 103(a) over RICHERSON et al. in view of RAMMIG et al. is improper for all the above reasons and withdrawal thereof is respectfully requested.

The Examiner has rejected claim 63 under 35 U.S.C. § 103(a) as being unpatentable over MATIAS et al.

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claim 46 to clearly obviate the above-noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that MATIAS et al. fails to teach or suggest the subject matter claimed in amended claim 46, as described above. The Examiner has concluded that modifying the MATIAS et al. device to mold the device of plastic would have been a matter of design choice. However, Applicant submits that nothing in the applied prior art teaches or suggests the claimed combination. Therefore, even if one were led to make the modification asserted by the Examiner, the claimed combination would not result. Accordingly, Applicant submits that a factual basis for the rejection has not been established and thus a prima facie case of obviousness has not been established, and that rejection of claim 63 under 35 U.S.C. § 103(a) can only result from a review of Applicant's disclosure and the application of impermissible hindsight. Accordingly, the rejection of claim 63 under 35 U.S.C. § 103(a) over MATIAS et al. is improper for all the above reasons and withdrawal thereof is respectfully requested.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 36-46 and 48-67.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper for entry since it merely clarifies the language describing the pointed tip portions of the projections and the arrangement of the pointed tip portions being embedded into the intermediate cladding layer, which is an issue which Applicant and the Examiner have already discussed during the interview, and it is also submitted and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicant's invention as recited in claims 36-46 and 48-67. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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Should there be any questions, the Examiner is invited to contact the undersigned
at the below listed number.

Respectfully Submitted,
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